

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, STATE OF
NORTH CAROLINA, STATE OF
CALIFORNIA, STATE OF COLORADO,
STATE OF CONNECTICUT, STATE OF
MINNESOTA, STATE OF OREGON, STATE
OF TENNESSEE, and STATE OF
WASHINGTON,

Plaintiffs,

vs.

Case No. 1:24-cv-00710-LCB-JLW

REALPAGE, INC.,

Defendant.

PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Plaintiffs United States of America, and the States of North Carolina, California, Colorado, Connecticut, Minnesota, Oregon, Tennessee, and Washington, acting by and through their respective Attorneys General, oppose Defendant RealPage, Inc.'s Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6), filed on December 3, 2024 (ECF No. 43). RealPage's Motion misapprehends governing law and gives short shrift to Plaintiffs' extensive allegations of RealPage's anticompetitive conduct.

Nevertheless, Plaintiffs respectfully have amended their complaint as a matter of right, *see* FED. R. CIV. 15(a)(1)(B), to add six of the many landlords that have participated in this anticompetitive scheme with RealPage (Greystar, LivCor, Camden, Cushman &

Wakefield/Pinnacle, and Willow Bridge, and Cortland) as Defendants, two additional States as co-Plaintiffs, and additional allegations of Defendants' anticompetitive conduct.¹ As this Court has held, the filing of the Amended Complaint in this action (*see* ECF No. 47) "can serve as a response to a motion to dismiss under Rule 12(b)," and it "supersedes the original complaint, rendering the original complaint of no legal effect and any motion to dismiss it moot." *Tucker Auto-Mation of N.C., LLC v. Rutledge*, No. 1:15-cv-00893, 2016 WL 11590593, at *1 & *2 (M.D.N.C. Sept. 23, 2016) (citing *Young v. City of Mount Ranier*, 238 F.3d 567, 572–73 (4th Cir. 2001)). Plaintiffs therefore respectfully request that the Court deny RealPage's Motion to Dismiss (the original Complaint) as moot. Should RealPage renew its Motion in response to the Amended Complaint, Plaintiffs will respond on the merits.

Dated: January 7, 2025

Respectfully submitted,

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¹ Rule 15(a)(1)(B) provides that "[a] party may amend its pleading once as a matter of course no later than ... 21 days after service of a motion under Rule 12(b)[.]" FED. R. CIV. P. 15(a)(1)(B). Here, that deadline was extended to January 7, 2025, by the Court in an order entered on November 19, 2024.

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WORD COUNT CERTIFICATION

I certify that this Opposition complies with the applicable word limits excluding the caption, signature lines, certificate of service, and any cover page or index in accordance with Local Civil Rule 7.3(d)(1). This certification is made in accordance with Local Civil Rule 7.3(d)(1). The undersigned relied on the word count feature provided by word processing software. The Opposition contains 307 words.

Dated: January 7, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

By: s/ Henry C. Su
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